

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
BRUNSWICK DIVISION**

FILED
U.S. DIST. COURT
SAVANNAH DIV.

2007 AUG 27 A 2:28

**DOUGLAS ASPHALT COMPANY,
JOEL H. SPIVEY and KYLE SPIVEY,**

Plaintiffs,

v.

**QORE, INC.; APPLIED TECHNICAL
SERVICES, INC.; GEORGENE M. GEARY;
GLENN DURRENCE; GUOHUA "GEORGE"
LIAN; PAUL V. MULLINS; GREG MAYO;
LARRY MATTHEWS; HAROLD
LINNENKOHL; and RICK DOUDS,**

Defendants.

Civil Action No.: 2:06-cv-229-AAA

**NON-PARTY GEORGIA DEPARTMENT OF TRANSPORTATION'S
MOTION FOR STAY OF RENEWED MOTION FOR A PROTECTIVE ORDER
PENDING APPEAL**

COMES NOW Georgia Department of Transportation ("GDOT"), a non-party in the above-styled action, and moves the Court to stay consideration of GDOT's Renewed Motion for a Protective Order pending appeal, and shows the Court as follows.

Currently pending before this Court is the motion filed by GDOT, which is not a party to the above-styled action. GDOT seeks a protective order in regard to discovery requests filed by the plaintiffs. The Court has scheduled a hearing on the motion for August 30, 2007.

On August 8, 2007, while this motion has been pending, the Court issued its ruling on the defendants' motions for judgment on the pleadings. The GDOT officials' motion was granted in part and denied in part. Specifically, the Court denied the motion with regard to Plaintiffs' equal protection claim. On August 22, 2007, the GDOT officials filed a Notice of Appeal (a copy of which is attached hereto as Exhibit "A."). In that Notice, the GDOT officials note that the Court did

not consider their qualified immunity defense, which makes the Court's otherwise interlocutory order immediately appealable.

Because the appeal process has now started, GDOT respectfully requests that the Court stay its consideration of its motion for protective order, and continue the hearing until such time after the appeal is resolved.

Respectfully submitted this 24th day of August, 2007.

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CERTIFICATE OF SERVICE

This is to certify that I have served a true and correct copy of the foregoing **NON-PARTY GEORGIA DEPARTMENT OF TRANSPORTATION'S MOTION FOR STAY OF RENEWED MOTION FOR A PROTECTIVE ORDER PENDING APPEAL** upon the following parties via U.S. Postal Mail, properly addressed as follows:

Brent J. Savage, Esq.
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This 24th day of August, 2007.



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SOUTHERN DISTRICT OF GEORGIA
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FILED
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BRUNSWICK, GA.

2007 AUG 22 P 2:29

DOUGLAS ASPHALT COMPANY,
JOEL H. SPIVEY and KYLE SPIVEY,

Plaintiffs

v.

QORE, INC.; APPLIED TECHNICAL
SERVICES, INC.; GEORGENE M.
GEARY; GLENN DURRENCE;
GUOHUA "GEORGE" LIAN; PAUL V.
MULLINS; GREG MAYO; LARRY
MATTHEWS; HAROLD LINNENKOHL;
and RICK DOUDS

Defendants

CIVIL ACTION NO: 2:06-CV-229

NOTICE OF APPEAL

Notice is hereby given that Defendants Georgene M. Geary, Glenn Durrence, Guohua "George" Lian, Paul V. Mullins, Greg Mayo, Larry Matthews, Harold Linnenkohl, and Rick Douds (the "GDOT Defendants") hereby appeal to the United States Court of Appeals for the Eleventh Circuit from the following Order:

1. The portion of the Order of the district court filed August 8, 2007 denying, in part, the GDOT Defendants' Motion for Judgment on the Pleadings. The district court's Order refused to consider whether the GDOT Defendants were entitled to the defense of qualified immunity on Plaintiffs' federal claims, which makes the court's otherwise interlocutory order immediately appealable. See, Collins v. School Bd. of Dade County, 981 F.2d 1203, 1205 (11th Cir.1993); Johnson v. Clifton, 74 F.3d 1087, 1090-

Exhibit "A"

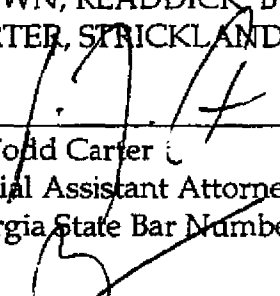
1091 (11th Cir. 1996); Cummings v. DeKalb County, 24 F.3d 1349, 1352 (11th Cir. 1994).

RESPECTFULLY SUBMITTED, this 22nd day of August, 2007.

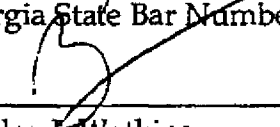
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Attorneys for Defendants Geary,
Durrence, Lian, Mullins, Mayo,
Matthews, Linnenkohl and Douds

CERTIFICATE OF SERVICE

This is to certify that I have this day served all parties with a copy of the foregoing pleading, by depositing same in the United States mail with adequate postage thereon to assure delivery to:

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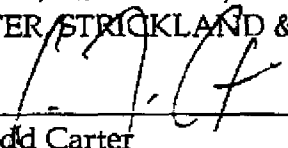
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This 22nd day of August, 2007.

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